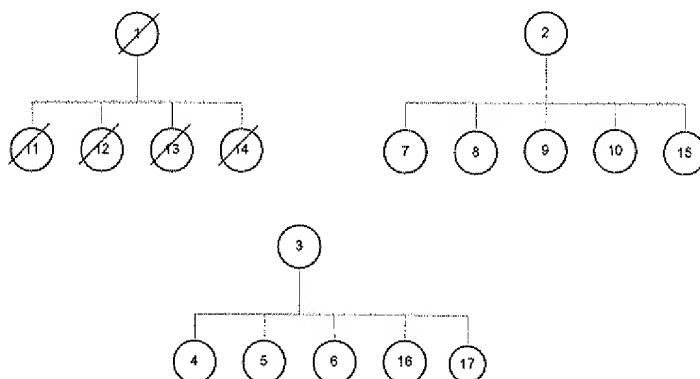


## REMARKS

In the Office action dated August 28, 2006, claims 1-17 were examined. Independent claim 2 and its dependent claims 7-10 and 15 were allowed. The remaining claims 1, 3-6, 11-14 and 17 were rejected as describing subject matter rendered obvious by the cited prior art. In addition, claims 1 and 11 were rejected for incorporating indefinite language.

In this response, claim 1 and its dependent claims 11-14 have been canceled in favor of their presentation in a continuation application. Because independent claim 2 and its dependent claims 7-10 and 15 are allowed,<sup>1</sup> the remaining remarks focus on independent claim 3 and its dependent claims 4-6, 16 and 17, which have been rejected in this Office action.

A diagram of the relationship among the claims is reproduced here.



Paragraph 5 of the Office action provides an interpretation of claim 3 in which the type of body described in the claims is not limited to a vehicle body but rather is considered to be “any body.” According to the Office action, this interpretation results from the fact that the “body” recited as an element is not required to be a “vehicle body” and the “body” in the claim element is not linked to the “vehicle body” of the claim’s preamble. The Office action considers claim 3 to describe the modeling of “any body” in keeping with the other requirements of the claim and not just a vehicle body.

As a preliminary matter, claims 2-10 and 15-17 have been amended to recite a process instead of a product by process. Independent claim 3 has been further amended to require the “body” recited in an element of the claim to be a “vehicle body” in keeping with

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<sup>1</sup> Claims 2, 7-10 and 15 have been amended to recite a process instead of a product by process.

the recitation of a “vehicle body” in the preamble of the claims. Claim 3 has also been amended to require the shape of the modeled body to conform to the shape of the modeled load.

#### Related Applications

This application is a continuation-in-part of parent U.S. patent application no. 09/333,379. The ‘379 application is on the docket of examiner Herng Der Day of Art Unit 2123. As of today’s date of January 26, 2007, a RCE has been filed into the application with a preliminary amendment. No claims are allowed.

This application is also related to U.S. patent application no. 10/286,095, although there is no formal relationship under 35 U.S.C. §120. The application was allowed October 21, 2005. An RCE was filed January 20, 2006, adding additional claims 8-20. A non-final Office action was mailed July, 5, 2006, rejecting claims 8-20. Applicant has recently responded to the Office action. The ‘095 application is on the docket of examiner Thu Nguyen of Art Unit 3661.

#### Drawings Objections

Applicants’ are submitting under a separate transmittal letter substitute drawings addressing the objections set forth in the “Notice of Draftsperson’s Patent Drawing Review” (Form PTO-948), which was included in the Office action.

#### Prior Art Rejections

Independent claim 3 and its dependent claims 4-6 and 17 have been rejected as describing subject matter that is an obvious variation of the subject matter in the cited prior art. Dependent claim 16 is identified as being patentable if rewritten independent form.

Turning to the rejections of claims 3-6 and 17, paragraph seven (7) of the Office action states these claims are obvious variations of the teachings in prior art references to Liffman et al. and the ‘889 Baker patent. Although applicants believe the cited prior art neither describes nor suggests applicants’ invention in claims 3-6 and 17, the references are not prior art to the claims.

This application is a continuation-in-part of US application serial no. 09/333,379, filed June 5, 1999. In this regard, applicants are submitting with this response a copy of the parent application serial no. 09/333,379 (hereinafter “the ‘379 application”), which was filed June 5, 1999. The transmittal cover document includes a statement by one of applicants’ attorneys attesting that the copy is a true and exact copy of the application as filed.

The application has not been published. The '379 application is substantially the same as the present application from pages 1 through 20. This application's drawing figures 1-22 correspond to the same numbered drawing figures in the parent '379 application. This application has additional drawing figures 23-25.

The '889 Baker patent was filed on September 16, 1999. The Liffman et al. publication is dated December 6-8, 1999. Both dates are after applicants' priority filing date of June 5, 1999. Applicants' pending claims 2-10 and 15-17 are supported by the specification common to the parent '379 application.

Regardless of their prior art status, neither the '889 Baker patent nor the Liffman et al. reference suggests the invention of the rejected claims either alone or in combination with the other reference. Turning first to the Liffman et al. reference, it describes a study of stress distribution at the base of a sand pile using "three dimensional discrete element code." Liffman et al. describes a technique for modeling piles of sand to determine stress at their bases in order to compare the results of the simulated piles to theory. Liffman et al. has nothing to do with a process of making a haulage body for a vehicle. In contrast to Liffman et al., the '889 Baker patent describes a technique for loading material into a haulage body so as to maintain an approximate even distribution of the weight of the material among the vehicle's tires.

Neither Liffman et al. nor the '889 Baker patent has anything to do with a process of making a haulage body for a vehicle as recited in claims 3-6 and 17, which are rejected in the Office action as reciting an obvious combination of the teachings in the '889 Baker patent and the Liffman et al. reference. There is simply no basis in either reference that even remotely suggests such a process. The rejection admits that Liffman et al. does not disclose modeling a body.<sup>2</sup> Instead, the Office action points to the '889 Baker patent and its Fig. 5 and says that "Baker discloses modeling a body to hold substantially conically shaped load of heaped material." (Para. 7.1 of the Office action, emphasis in original). However, there is nothing in the '889 Baker patent describing a process for making a vehicle body. To the contrary, the '889 Baker patent concerns a method and apparatus for controlling the loading of an existing truck body so as to center the load in the body. There is not the slightest hint of a teaching about making a body, which is described in applicants' claim 3. A clean copy of independent claim 3 is reproduced below.

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<sup>2</sup> The rejection emphasizes Liffman et al. does not disclose modeling "a" body, apparently referencing the construction of claim 3 discussed in paragraph 5 of the Office action. Claim 3 has been amended to call for modeling a vehicle body.

3. A process for making a body of a haulage vehicle comprising:
- modeling a shape of a load of heaped material in three dimensions, where the shape of the load of heaped material is substantially conical;
  - modeling a body of a haulage vehicle to hold the substantially conically shaped load of heaped material, where a shape of the body conforms to the shape of the load of heaped material in three dimensions and is determined by predetermined parameters; and
  - producing the body according to values of the predetermined parameters resulting from modeling of the body.

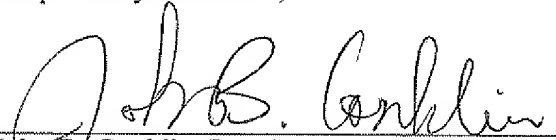
The rejection of claim 3 and its dependent claims should be withdrawn for at least two reasons. First, the Liffman et al. reference and the '889 Baker patent are not prior art to applicants' application because the claims are entitled to the filing date of the parent application. Second, any combination of the references does not suggest making a body for a haulage vehicle, which is the subject matter of claim 3 and its dependent claims 4-6, 16 and 17. Neither of the references has anything to do with making a vehicle body. At best, the teachings of the Liffman et al. reference about the heaping of sand may inform the description in the '889 Baker patent concerning the loading of the truck body in the patent if it is loading sand. That teaching has nothing to do with a process for making a vehicle body and cannot reasonable form a basis for rejecting the claims as obvious in view of the cited prior art.

**CONCLUSION**

Favorable reconsideration of the application and claims 2-10 and 15-17 is respectfully requested in view of the amendments presented herein and the accompanying remarks.

If, in the opinion of the examiner, a telephone conference would expedite the prosecution of the subject application, the examiner is invited to call the undersigned attorney.

Respectfully submitted,

A handwritten signature in cursive script, reading "John B. Conklin", written in black ink over a horizontal line.

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